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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,115	11/29/2000	Thomas Gerard Marsh	P66115US0	8760

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EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/725,115

Applicant(s)

MARSH ET AL.

Examiner

Arrienne M. Lezak

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3 & 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

Claims 1 & 26 are rejected under 35 U.S.C. 102(d) as being anticipated by EP Patent 0 609 426 B1 to Marsh. Marsh discloses a computer based training method carried out by a computer used by a student, wherein the computer is a client computer and the method comprises the steps of a server-based training system dynamically downloading training content to the client computer in response to student instructions received by the client computer, (Claim 1, p.15). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 1 & 26.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over thorough consideration of EP Patent 0 609 426 B1 to Marsh.

5. Regarding Claims 1-26, Marsh discloses:

A computer based training method carried out by a computer used by a student, wherein the computer is a client computer and the method comprises the steps of a server-based training system dynamically downloading training content to the client computer in response to student instructions received by the client computer, (per pending Claims 1, 22 and 26), (paragraph #0007 and Claims 1-17 on pp.15-17):

- wherein the system downloads a control program, a content data file, and a navigation frame program to the client computer, and the step of downloading content comprises the sub-steps of: the navigation frame program notifying the control program of the need for content according to a student request; and the control program requesting the content from the system according to the content data file, (per pending Claims 2 & 26), (paragraphs #0007 & 0008 and Claims 1-17 on pp.15-17);

- wherein the content data file defines the location of selected content on the system, (per pending Claims 3 & 26), (paragraph # 0036 and Claims 1-17 on pp.15-17);
- wherein the content data file relates to one or more learning object, each learning object containing a plurality of learning points, (per pending Claim 4), (paragraph # 0036 and Claims 1-17 on pp.15-17);
- wherein the system also downloads a content frame program for a screen frame dedicated to output of content location of said content, and the control program requesting said content from the system; and the navigation frame program updating course progress variables as fresh content is downloaded and played, (per pending Claims 5 & 23), (paragraphs #0039 & 0040 and Claims 1-17 on pp.15-17);
- wherein the control program is registered in the client computer as a frame program, and its frame dimensions are such that the frame is hidden from the student, (per pending Claims 6, 23 & 26), (paragraphs #0007, #0041, #0042 and Claims 1-17 on pp.15-17);
- wherein the navigation frame program establishes a frame in the client computer for navigation user interaction independently of current content, (per pending Claims 7 & 26), wherein the navigation frame program notifies the control program of a next selected content according to a student request, (per pending Claims 8 & 26), and wherein the navigation frame program operates

independently of the content frame program, (per pending Claim 9), (paragraphs #0007, #0041, #0042 and Claims 1-17 on pp.15-17);

- wherein the system downloads a progress variables frame program, said program establishes a hidden frame in the client computer, and receives updates to course progress variables as a student progresses through a course, (per pending Claims 13 & 24), (paragraph #0007 and Claims 1-17 on pp.15-17);
- wherein the navigation frame program updates said progress variables, and said updates are performed when a new learning point is activated, (per pending Claims 14, 24 & 26), (paragraph #0007 and Claims 1-17 on pp.15-17);
- wherein the system stores information resource settings accordingly to a student registration configuration and each learning object as represented by the content data file, and the system downloads said setting for the information frame program, (per pending Claim 15); and wherein the settings are embedded in the content data file, and the control program parses the content data file to obtain the settings in response to a request from the information frame program, (per pending Claim 16), (paragraph #0007 and Claims 1-17 on pp.15-17);
- wherein the system downloads a start document at the start of a course, the start document defines an initial screen display and identifiers of progress variables to be updated with assistance from the progress variables frame program, (per pending Claims 17 & 26); wherein the system also downloads command line parameters indicating the location in the system of the content data file, (per pending Claims 18 & 26); and wherein the system downloads the

control program after downloading the command line parameters, and the control program parses the command line parameters to determine the location of the content data file, (per pending Claims 19 & 26), (paragraphs #0007-#0014 and Claims 1-17 on pp.15-17);

- wherein at the start of a course the control program parses the content data file to locate an identifier for a content map and causes the content map to be downloaded, and the content frame program allows student selection of desired content, (per pending Claims 20 & 26), and wherein initial content is downloaded in response to a student selection using the content map, and subsequent content is selected in response to student inputs for the navigation frame program, (per pending Claims 21 & 26), (paragraphs #0007-#0015 and Claims 1-17 on pp.15-17).

6. Examiner notes that Applicant admits that modification of Applicant owned Patent EP Patent 0 609 426 B1 is possible. Examiner also notes that Applicant admits that Applicant's invention disclosed in EP Patent 0 609 426 B1 can be executed in any desired stand alone or client/server environment, (Applicant Specification – p.1). Examiner notes that EP Patent 0 609 426 B1 does not specifically disclose the application of said patent within an Internet environment, separate from the content data file, for purposes of obtaining independent exterior (Internet - URL) sources of information, (per pending Claims 10-12 & 25). Examiner further notes that Applicant has incorporated the use of Java and XML, for purposes of modification convenience.

7. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to apply the Marsh computer based training system to the Internet, as the Marsh system stores information on a server for distribution to a remote client on command. It would have been obvious for said server and said remote client to communicate over a network. As the Internet is a network, which was available at the time of invention by Applicant, the use of the Internet for transmission of training information and communication between server and client would have been obvious. Further, Examiner notes that Marsh indicates a large degree of flexibility concerning the automated production of said training system, (paragraph # 0086), which flexibility would obviously include the incorporation of a well-known and commonly used language such as Java and XML, particularly and obviously for Internet interaction. Thus, Claims 1-26 are found to be unpatentable over extensive consideration of the teachings of EP Patent 0 609 426 B1 to Marsh.

8. Claims 1-26 are also rejected under 35 U.S.C. 103(a) as being unpatentable over extensive consideration of the teachings of US Patent 6,149,438 to Richard.

9. Regarding Claims 1-26, Richard discloses:

A computer based training method carried out by a computer used by a student, wherein the computer is a client computer and the method comprises the steps of a server-based training system dynamically downloading training content to the client computer in response to student instructions received by the client computer, (per pending Claims 1, 22 and 26), (Abstract; Col. 2, lines 25-67; Col. 3, lines 1-27; Col. 5, lines 57-64; Col. 14, lines 23-67; and Cols. 15 & 16):

- wherein the system downloads a control program, a content data file, and a navigation frame program to the client computer, and the step of downloading content comprises the sub-steps of: the navigation frame program notifying the control program of the need for content according to a student request; and the control program requesting the content from the system according to the content data file, (per pending Claims 2 & 26), (Abstract; Col. 2, lines 25-67; Col. 3, lines 1-27; and Col. 5, lines 57-64);
- wherein the content data file defines the location of selected content on the system, (per pending Claims 3 & 26), (Col. 4, lines 48-67 and Col. 5, lines 1-29);
- wherein the content data file relates to one or more learning object, each learning object (obviously) containing a plurality of learning points, (per pending Claim 4), (Col. 6, lines 22-49);
- wherein the system also downloads a content frame program for a screen frame dedicated to output of content location of said content, and the control program requesting said content from the system; and the navigation frame program updating course progress variables as fresh content is downloaded and played, (per pending Claims 5 & 23), (Col. 8, lines 15-28);
- wherein the control program is registered in the client computer as a frame program, and its frame dimensions are such that the frame is hidden from the student, (per pending Claims 6, 23 & 26), (Col. 8, lines 28-47);

- wherein the navigation frame program establishes a frame in the client computer for navigation user interaction independently of current content, (per pending Claims 7 & 26), wherein the navigation frame program notifies the control program of a next selected content according to a student request, (per pending Claims 8 & 26), and wherein the navigation frame program operates independently of the content frame program, (per pending Claim 9), (Col. 8, lines 28-47);
- wherein the system downloads a progress variables frame program, said program establishes a hidden frame in the client computer, and receives updates to course progress variables as a student progresses through a course, (per pending Claims 13 & 24), (Col. 7, lines 26-30 and Col. 8, 28-47);
- wherein the navigation frame program updates said progress variables, and said updates are performed when a new learning point is activated, (per pending Claims 14, 24 & 26), (Col. 7, lines 26-30 and Col. 8, 28-47);
- wherein the system stores information resource settings accordingly to a student registration configuration and each learning object as represented by the content data file, and the system downloads said setting for the information frame program, (per pending Claim 15); and wherein the settings are embedded in the content data file, and the control program parses the content data file to obtain the settings in response to a request from the information frame program, (per pending Claim 16), (Col. 7, lines 46-67 and Col. 8, lines 1-14);

- wherein the system downloads a start document at the start of a course, the start document defines an initial screen display and identifiers of progress variables to be updated with assistance from the progress variables frame program, (per pending Claims 17 & 26); wherein the system also downloads command line parameters indicating the location in the system of the content data file, (per pending Claims 18 & 26); and wherein the system downloads the control program after downloading the command line parameters, and the control program parses the command line parameters to determine the location of the content data file, (per pending Claims 19 & 26), (Col. 5, lines 57-67; Col. 6, lines 1-49; Col. 7, lines 18-25; and Col. 8, lines 15-47);
- wherein at the start of a course the control program parses the content data file to locate an identifier for a content map and causes the content map to be downloaded, and the content frame program allows student selection of desired content, (per pending Claims 20 & 26), and wherein initial content is downloaded in response to a student selection using the content map, and subsequent content is selected in response to student inputs for the navigation frame program, (per pending Claims 21 & 26), (Col. 8, lines 15-47).

10. Examiner notes that Richard does not specifically disclose the application of said patent within an Internet environment, separate from the content data file, for purposes of obtaining independent exterior (Internet - URL) sources of information, (per pending Claims 10-12 & 25). Examiner further notes that Applicant has incorporated the use of Java and XML, for purposes of modification convenience.

11. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to apply the Richard computer based training system to the Internet, as the Richard system teaches the transfer of information over any necessary network, (Col. 4, lines 15-25). The Internet was a well-known network at the time of invention by Applicant, and application of the Richard training system over the Internet would have been obvious especially within a network of hundreds or thousands of computers. Further, Examiner notes that Richard discloses a maintenance functionality, (Col. 7, lines 40-67) and an authoring functionality, (Col. 8, lines 48-65), which maintenance and authoring functionalities could obviously include the incorporation of a well-known and commonly used language such as Java and XML, particularly and obviously for Internet interaction. Thus, Claims 1-26 are found to be unpatentable over extensive consideration of the teachings of Richard.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent 5,960,403 to Brown.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
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AML



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